

Tribunal of the Catholic Diocese of Columbus



MARRIAGE AND THE ANNULMENT PROCESS

The Church considers marriage to be a state of life in which a man and a woman become one in a partnership of the whole of life. Marriage is a relationship established by God and, as such, no human being can either remake it or break it. So sacred is the bond of marriage that Christ himself said to his followers, “What God has joined together no human being may ever divide. (Matthew 19:6)” Marriage between two baptized persons is raised by Christ to the dignity of a Sacrament. Holy Church speaks of marriage vows as covenant. Covenant is a much stronger term than contract. The term covenant both connotes and denotes a solemn promise under seal from which there is no turning back. In marriage the seal is that of the Holy Spirit. By the exchange of wedding vows a man and a woman are covenanting for a perpetual and ever faithful bond of marriage is ordered to the well being of each other and individuals and as couple and is open to the procreation and education of children.

The life of marriage is not always easy and, sadly, for some, marriage becomes a fragile thing. For many reasons marriages end up in civil divorce. Some marriages are not successful because one or both of the parties simply decide they don't want to be married anymore. Some marriages, even after a long common life and wonderful children, end in civil dissolution because, while the parties had all the best intentions or hopes on the day of the wedding, something vital to the marriage was missing. The Tribunal of the Diocese of Columbus exists in law to help those persons who have suffered civil dissolution of their marriage and now seek clarification of their status in the Church so that they might marry again in the Church. For those who have civilly divorced and remarried outside the Church, they may not seek validation of their civil union and return to the Sacraments Reconciliation and Eucharist.

The Church is always sensitive to the anxiety and stress civil dissolution may cause and to a similar anxiety and stress the process of determining one's status in the Church may bring. We do our very best to be sensitive and understanding to your concerns and needs.

What marriages are recognized as valid marriages by the Roman Catholic Church?

- Marriages between two Catholics or one Catholic and a non-Catholic Christian who are married in the presence of the Catholic Church's minister and two witnesses.
- Marriage between a Catholic and any person baptized or not, so long as the proper dispensation for the non-baptized person had been obtained and who are married outside the Roman Catholic Church by a non-Catholic cleric or civil official with Dispensation from the Form of Catholic marriage.

- Marriage between two non-Catholics (Christians or not) who are married by a non-Catholic cleric or civil official according to the civil law of the place of the marriage.

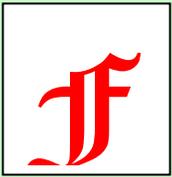
Once a marriage is entered into in any of the above scenarios the Catholic Church presumes what has been publicly stated and witnessed to be a valid marriage and indissoluble until the contrary has been proven. Because the Catholic Church holds marriage to be sacred and indissoluble, the Church does not recognize second civil marriage when there has been no determination of the status of person by a Catholic Tribunal. As far as the Church is concerned, it honors the first bond as a valid marriage until the contrary is proven.

The Church has established a process by which one may have his or her status in the Church determined. That is to say, a person may present a case to the proper Tribunal to have his/her marriage to a former spouse declared invalid and not binding. Several sorts of persons may seek the services of the Tribunal. Some have been previously married are in the RCIA program and want to become baptized or make solemn profession of faith as a Roman Catholic. Some are non-Catholics who want to marry a Catholic person free to marry. Some may be Catholics who have not immediate plans for marriage, but want their status of person clarified for peace of mind and spiritual growth.

In any event, the Canonical process is not daunting, but it is one of laws and strict procedures in order to protect the rights of both parties to the marriage presented for consideration.

There are many misconceptions about the declaration of nullity process. The following pages are designed to answer the most asked questions about annulments and tell you something of the process.

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REQUENTLY ASKED QUESTIONS.

1. What is a declaration of nullity (annulment)?
2. Does an annulment have anything to do with civil law?
3. Does an annulment affect the legitimacy of children?
4. Who can apply for an annulment?
5. How is an annulment process started?
6. Does my former spouse have to be contacted?
7. What documents are needed?
8. How is a case submitted to the Tribunal?
9. Do I need witnesses and who may be a witness?
10. What happens when a case is submitted to the Tribunal?
11. Is other information needed?
12. Who reads my testimony, my former spouse's testimony and witness testimony?
13. When is a decision reached?
14. What about an appeal?
15. When does the decision become final?
16. Does the Tribunal ever deny an annulment?
17. When can I set a wedding date?
18. How long does it take to complete the annulment process?
19. How much does it cost?
20. What if I have other questions?

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WHAT IS A DECLARATION OF NULLITY (ANNULMENT)?

A declaration of nullity states that, according to Church law, a given marriage was not valid and, therefore, not binding upon the parties at the time they publicly spoke their marriage vows. A declaration of nullity states that a marriage was invalid from the very beginning, no matter how many years the parties lived a common life. Church annulments should never be thought of a Catholic “divorce”. Is a legal term that presumes there was a lawful, valid marriage that for one reason or another went sour and ended in civil divorce, i.e., a civil declaration that one is free from and no longer bound to the marriage. The Catholic Church, because of the teaching of Christ, does not recognize divorce and, therefore, upholds all true and valid bonds of marriage. Annulment means that the thing – in this case marriage – never existed in the first place.

The Church never denies that the man and woman had a relationship, and often one that produced children. What the Church says in granting an annulment is that the relationship at the time of the wedding made entering a valid union impossible, according to the teachings of Christ and His Church. The civil effects and recognition of that marriage remain intact and unchanged.

Moreover, an annulment is not a statement that the marriage was necessarily entered into in bad faith by either of the parties. Experience and common sense tells us that every party to a relationship does not always act in a way that is beneficial to the relationship. However, annulment proceedings are not a process that seeks to place blame, or who was the guiltier for its failure. The process does enable learned Ecclesial judges to determine whether or not that the consent of the parties on the day of their wedding was a valid and binding marriage according to the laws and teaching of the Catholic Church. If not, a declaration of nullity of marriage is given.

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DOES AN ANNULMENT HAVE ANYTHING TO DO WITH CIVIL LAW?

No. In the United States, a declaration that a marriage was invalid from the start has no effect before the laws of the federal government or any state. It does not affect anything that is determined by civil law, such as alimony, child custody, child support, visitation rights, division of property, legitimacy of children and the like. Annulment pertains only to the internal governance of the Catholic Church. It is noted, however, that Church moral teaching and Church law require both parents to nurture and financially support their children.

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DOES AN ANNULMENT AFFECT THE LEGITIMACY OF CHILDREN?

No. The legitimacy of children is determined by the laws of the states. Just as a divorce does not make children illegitimate, neither does an annulment granted by the Church. The laws of the Church state that children born of a supposedly valid union are legitimate children. Therefore, if the marriage is later shown to have been invalid, the status of the children remains unchanged: they are legitimate.

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WHO CAN APPLY FOR AN ANNULMENT?

Almost always, a person seeking an annulment is someone who has been married, is now divorced and wishes to be baptized in or makes a solemn profession of faith in the Roman Catholic Church and or wishes to marry again, specifically in the Roman Catholic Church.

Divorced people, no matter what their religious affiliation, or not, have a carefully protected right in this Church to ask the Church to determine whether or not their previous marriage is valid and binding. If the person approaching the Church is not Catholic, he or she may be seeking baptism in the Church or as an already baptized non-Catholic may be seeking full communion with the Church, or wishes to remarry a Roman Catholic who wants the marriage to be recognized by the Catholic Church.

Indeed, the Roman Church recognizes and respects the vows of marriage of all couples if both persons are free to marry (not bound by a prior union), are of proper age, and mentally competent to give consent, who in any public way and place, exchange vows of marriage with one another. Thus, the Catholic Church recognizes all such marriages of non-Catholics. Members of the Roman Catholic Church, however, are additionally bound to have their marriage recognized by the Church. This is why members of other churches must often go through an annulment process before they can marry in the Catholic Church.

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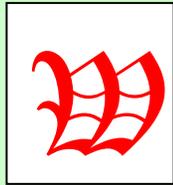


HOW IS AN ANNULMENT PROCESS STARTED?

The annulment process begins at the parish level. Usually an appointment is scheduled with a priest or deacon or a specially trained and delegated pastoral minister who will more often than not act on your behalf as a Procurator (advisor) or Advocate. You will be given the appropriate packet of information. These documents are presented in such a form that they may be “edited”, that is to say, you can key your answers into the forms. The questions concern your childhood and family, your former spouse’s childhood and family, dating experience, the courtship and engagement, the first two years of the common marriage, always looking to the problems that existed. It really is nothing more than telling your “story”. If you are not a Roman Catholic, you should begin the process in the parish of your intended spouse.

The forms must be signed in the parish minister’s presence, notarized by the pastoral minister and submitted by him or her. Applications sent directly to the Tribunal will not be accepted.

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WILL MY FORMER SPOUSE BE CONTACTED?

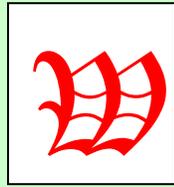
Yes. We are required by Church law to inform your former spouse that you have initiated a process for annulment of your marriage and offer him or her opportunity to offer a response and to participate in the entire process. Your former spouse will receive a letter explaining the process and asking for her or his cooperation and participation by offering testimony and calling witnesses.

While the refusal or failure of your former spouse to participate is not necessarily fatal to the process, it is very helpful to have the participation of your former spouse. Your former spouse does not have to agree to the annulment. But we must let the former spouse know that the process has begun and its eventual outcome.

Sometimes, it happens that the current address of the former spouse is not readily known. It is required that the person petitioning for annulment try every reasonable avenue, internet, telephone listing, parents, relatives and the like, to find the former spouses address. There are several places on the Internet that might help you find a recent address. For example, one helpful site is <http://www.locateme.com>. If all fails and the marriage took place in the Diocese of Columbus, the persons seeking the annulment should file an affidavit with the application form, stating all the steps taken to try to find the former spouse.

If the former spouse's address cannot be found and the wedding took place outside the Diocese of Columbus, the case will have to be submitted to the diocese where the marriage took place. This information applies to Catholics and non-Catholics alike.

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WHAT DOCUMENTS ARE NEEDED?

- ✓ Newly issued copies of the baptismal certificates of all Catholic parties involved.
- ✓ A certified copy of the civil marriage Abstract.
- ✓ A copy of the church marriage certificate if applicable.
- ✓ A certified copy of the civil divorce decree.

The above civil documents will be returned to you upon request.

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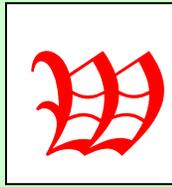


HOW IS A CASE SUBMITTED TO THE TRIBUNAL?

Once you have completed the Application form, faithfully answered all the interrogatories and gathered all the necessary documents, you will need to arrange another appointment with your pastoral minister (priest, deacon, qualified religious or lay pastoral minister) who first assisted you. The pastoral minister will review the packet to make sure everything is in order. If it is complete, the pastoral minister will ask you to sign the document in his or her presence and to appoint him or her as your Procurator/Advocate for the processing of the case. Your pastoral minister will then forward all the documents to the Tribunal.

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WHAT HAPPENS NEXT?

As soon as your Application is received by the Tribunal, it will be carefully reviewed by a Judge within several days. If there is any basis for accepting your Application and proceeding with your case at law, your Procurator (parish minister) will be informed and a Formal Petitioner will be sent to you for your signature. It is important that the Formal Petitioner be signed by you and witnessed by your parish minister and returned to the Tribunal at the earliest possible time. The case cannot truly commence until the Formal Petition has been filed.

Upon receipt of the Formal Petitioner, the Presiding Judge will appoint Panel of Tribunal officials to help in the process of your case. The Auditor assigned to your case will be of importance to you. The Auditor is the person who most often will be contacting you on behalf of the Tribunal.

The Presiding Judge will also appoint a Defender of the Bond at this time. Catholic law presumes that all marriages are valid until proven otherwise. It is the office of the Defender of the Bond to use any and all facts and arguments available to uphold the bond that is being impugned. Since the Roman Catholic Church hold marriage is such high regard, the Church requires that a Defender be appointed in all marriage cases.

The Presiding Judge will then issue a Decree of Acceptance, Competency and Citation of the Respondent. In regard to the latter, your former spouse will be informed of the process and invited to participate by giving testimony. Your former spouse will also be given an opportunity to have an Advocate appointed on his or her behalf. The witnesses you provided will also be contacted at this time. As indicated in the information you receive, it is important that you contact your witnesses in advance to secure their permission to be contacted. It is equally important for you to stay in touch with your witnesses to assure their prompt reply. Delay in the progress of cases usually is attributable to two things: failure of the Petitioner to cooperate as the Tribunal asks and failure of witnesses to timely and fully respond.

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WHO CAN BE WITNESSES?

This is a very important question. You are asked to contact no less than four people who might express a willingness to help with your case. These should be people who know something about your family life, the time just before and during the courtship, at the time of the wedding and the first months of the common life. These are usually friends or family members. Generally, people who met you at or after the wedding, children of the marriage, co-workers and neighbors after the wedding date, and the like, are not to be witnesses. They truly know nothing that will help the Tribunal determine whether or not on the day of your wedding you and your former spouse gave a valid consent to marriage and Christ and the Church teaches and believes.

Be sure to line up your witnesses before you file your Application and tell them that they have your permission to speak freely. Of course, it is essential that we have correct addresses for each one. It can also be helpful if they are will to offer us their telephone number in case we have a couple of questions that can help clarify facts about the case.

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IS OTHER INFORMATION NEEDED?

Sometimes more information may be needed from you. In such cases, you will be asked to come to the Tribunal for an oral deposition. You will be able to bring you Procurator/Advocate (pastoral minister) with you. In more complicated cases, a psychological will be sought from a professional who is part of the Tribunal staff. You may be asked for a clinical interview and testing. This is always done at the Tribunal offices at no cost to you. The psychological report that is generated as a result of such interview and testing is kept secret. Only the necessary Tribunal officials will ever see the report in order to make a determination in your case.

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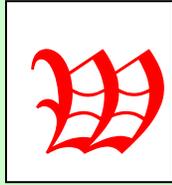
WHO READS THE TESTIMONY?

Any and all psychological reports are sealed. No one except the necessary Tribunal officials working on your case ever see or read them. All Tribunal officials take a solemn oath of secrecy. Witnesses are never permitted to read any other witnesses testimony, nor the testimony of the principal parties to the process.

At the end of the investigation stage of the process, both you and your former spouse will receive a notification of Publication of all of the documents (Acts) of the case. These documents include procedural documents and all testimony, including your testimony, the testimony of your former spouse (Respondent) and all the testimony of all witnesses. As indicated above, other than the necessary Tribunal officials, only you and your former spouse are able to review each other's testimony and the testimony of all the witnesses. You are given the right by law to read all of the Acts in order to fully demonstrate and argue your case to the Tribunal. Your former spouse is given the right by law in order to defend against an annulment should she or he so choose.

Sometimes, but rarely and under extraordinary circumstances, a party to a case or a witness may ask to have a specific piece of testimony held confidential. The only reason for such confidentiality being granted is that knowledge of the testimony offered would cause most serious and irreparable harm to another person. Never can the whole of any person's testimony be held confidential. To do so would undermine the very judicial process, a sense of fair play and the right to defense.

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WHEN IS A DECISION REACHED?

After the time of Publication has run, the Presiding Judge will decree Conclusion of the case. At that time your Procurator-Advocate (usually your parish pastoral minister) will be given an opportunity to prepare and file a brief on your behalf. At the same time, the Judge will instruct the Defender of the Bond to prepare a brief on behalf of the Church, representing the marriage itself, using whatever facts available to uphold the validity of the marriage. Defender has the right of rebuttal.

After the filing of all the briefs, the judge or panel of judges will vote and write the decision. They will decide whether or not the marriage was valid or invalid from the start. After the judge(s) reach a decision (called a Definitive Sentence), you, your former spouse (unless the former spouse does not wish to be contacted) and the Defender will be notified of the decision. Both you and your former spouse will be invited to the Tribunal to read the decision. You, your former spouse and the Defender of the Bond will also be apprised of your rights to appeal the decision if you do not agree with it. Any of the three parties of interest may appeal the Appeals Court of the Diocese of Cleveland or to the Roman Rota.

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WHAT ABOUT AN APPEAL?

As indicated in other places, the Roman Catholic Church holds marriage is such high esteem that the law mandates that all marriage cases must have the concordant decision of two Church tribunals. You, your former spouse and the Defender of the Bond have an absolute right in law to appeal a decision you do not like to a higher Court. Those appeals must be lodged with the Columbus Judge who first heard your case. Normally such appeals will be sent to the Appellate Tribunal in Cleveland. All of the parties of interest (you, your former spouse and the Defender) have the right to appeal the case directly to Rome.

Should the parties of interest (you, your former spouse or the Defender of the Bond) choose not to appeal the case in you own names, then the law itself will appeal the case to the Appeals Tribunal in the Diocese of Cleveland. A law appealed case is never sent to Rome.

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WHEN DOES THE DECISION BECOME FINAL?

When and if both the Diocese of Columbus and the Appellate Court of Cleveland (or the Roman Rota) give affirmative decisions (meaning that the marriage in question is invalid), both you and your former spouse will be free to enter into a new marriage in the Catholic Church (unless other marriage cases are pending). At this point the decision in the case is final.

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DOES THE TRIBUNAL EVER DENY AN ANNULMENT?

Yes. Some cases are given a negative decision; that is, the judge(s) decide that the marriage was either a valid and binding union or that you have not sustained your burden to prove that the marriage was invalid. In either case, the judge has no choice but to render a negative decision. If this should happen, you will be notified of that decision by the Tribunal. You would then have the option to appeal the case to the Appeals Tribunal of the Diocese of Cleveland or to the Roman Rota. Should Cleveland decide that the marriage was null and void; the case would have to be appealed to the Roman Rota. There must be two concordant decisions for a case to be finished. Should you choose to appeal to the Rota in second instance and that court decided in favor of nullity, the case would remain there for necessary third hearing. The Roman Rota is the Supreme Court of the Church (among other things).

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WHEN CAN I SET A WEDDING DATE?

A wedding date should NEVER BE SET until the declaration of nullity has been received; that means the Columbus and Cleveland Courts (as well as the Rota, if involved) have declared you marriage invalid and you have received a final notification of such and a Declaration of Freedom to Marry. The reason for this is that one is never sure of the outcome of a case until it receives two affirmative decisions: usually from the Columbus Tribunal and the Appellate Cleveland Tribunal. If the Columbus Tribunal grants an affirmative decision, the Cleveland Appellate Court may overturn that decision and the case must then be sent to the Roman Rota. Too, a former spouse may elect to appeal the case to the Roman Rota. In the latter two instances, a number of years are involved.

Since the outcome of a marriage nullity case is never certain, in the Diocese of Columbus no priest or deacon is permitted to set a wedding date until he is in possession of a true copy of a Declaration of Freedom to Marry. It follows that no halls should be booked or invitations ordered or any other contract made that is dependent upon your or your future spouse's freedom to marry.

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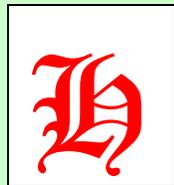


HOW LONG DOES IT TAKE TO COMPLETE THE PROCESS?

There is simply no way to promise that your case will be complete within a certain period of time or that the outcome will be in your favor. However, the general norm is that it should no longer than a year in the Columbus Tribunal and no longer than an additional six months in the Cleveland Appellate Tribunal. The time frame for a declaration of nullity depends on many factors. For instance, former spouses and witnesses may delay giving their testimony or an oral deposition of one or both of the parties may be necessary, or medical psychological expert may have to interview and test one or both of the parties.

A formal case sent to Rome may take years.

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HOW MUCH DOES THE ANNULMENT PROCEDURE COST?

Nothing to you. The Diocese of Columbus is most fortunate in not having to charge for the annulment process. A number of years ago all of the parishes of the Diocese gifted one percent of the annual income to a Foundation created specifically to fund the Diocesan Tribunal. While the amount of money in the Foundation is substantial, it still does not meet the actual costs borne by the Columbus Tribunal. Additional funds are granted each year from the Bishops Annual Appeal in order that we do not have to ask anyone using the good offices of the Tribunal to pay for services received.

If at the conclusion of your case, you wish to make a donation to the Catholic Foundation, Tribunal Fund you may do so in the knowledge that you are helping future people in need of canonical services to receive them without charge.

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WHAT IF I HAVE OTHER QUESTIONS?

You may talk with you parish priest, deacon or delegated pastoral minister or you may telephone the Columbus Tribunal at 614 241 2500.